IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2011 OF 2005
IN
FIRST APPEAL STAMP NO.6200 OF 2005

State of Maharashtra ... Appellant
Vs.
Dattatraya N. Chaphekar ... Respdt.

Mr.Tated, AGP for state.
Mr.Karlekar for respdt.

CORAM: S.B.MHASE &
S.R.SATHE,JJ.
DATE :9th August 2005.

P.C.

1. Heard. This matter is valued to Rs.9,57,000/- Therefore, the matter lies before the Single Judge Bench. However, cross appeal has been filed by respondent and value of the said appeal is Rs.30 lacs approximately and the said appeal is within the jurisdiction of Division Bench. However, both the appeals are arising out of same Judgement and order. Perused Bombay High Court Rules 1960, Chapter 1, Rule 2 (I) proviso which states that,

> **‘‘the expression ‘the value of the subject matter still in dispute on appeal’ appearing in this sub-clause shall be construed to mean, where**

there is an appeal as well as a cross appeal or cross-appeals or cross objections, the total of the values of the subject matters in dispute in the appeal as well as the cross appeal or the cross-appeals or the cross-objections.’’

Therefore, the matter independently pertaining to Single Judge Bench, is being considered by us. This appeal was rejected for non payment of Court fee within the stipulated period . There is application for restoration of appeal. Learned counsel for other side has no objection for restoration. Therefore, Civil Application No.2011 of 2005 is allowed and First Appeal Stamp No.6200 of 2005 is hereby restored on payment of Court fee stamp within four weeks.

2. Admit.

3. Both the appeals are expedited.

4. Call for record and proceeding.

(S.R.SATHE) (S.B.MHASE)